IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No.26550 of 2006

For Approval and Signature:

HON'BLE MR.JUSTICE J.M.PANCHAL

HON'BLE SMT. JUSTICE ABHILASHA KUMARI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RAKESHBHAI BACHUBHAI PATEL - Petitioner(s)
Versus
MUNICIPAL COMMISSIONER AHMEDABAD MUNICIPAL CORP., - Respondent(s)

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Appearance :
MS HINA DESAI for Petitioner(s) : 1,
MR MAULIN RAWAL FOR M/S RJ RAWAL ASSOC. for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE J.M.PANCHAL

and

HON'BLE SMT. JUSTICE ABHILASHA KUMARI

Date : 22/02/2007

ORAL JUDGMENT (Per: HON'BLE MR.JUSTICE J.M.PANCHAL)

1. By filing the instant petition under Article 226 of the Constitution, the petitioner has prayed to issue a Writ of Mandamus or any other appropriate Writ or order directing the respondent to issue the final bills of taxes for the Assessment Years 1994-95 to 2000-01 and furnish the details of the adjustment made from the provisional bills.

2. The petitioner, i.e. Mr.Rakeshbhai Bachubhai Patel, is one of the Trustees of B.D.Estate Trust, which is registered under the provisions of the Bombay Public Trusts Act, 1950. The Trust owns a building situated in Ward No.121, which is constructed on Final Plot No.126 of Town Planning Scheme No.19. The grievance made by the petitioner is that the respondent-Corporation has imposed a huge amount of property tax without finalizing the provisional bills of taxation issued to the Trust. Under the circumstances, the petitioner has filed the instant petition and

claimed relief to which reference is made earlier.

3. The learned counsel for the petitioner submitted that the amount of tax assessed by the respondent-Corporation has not been finalized till today for the Assessment Years 1994-95 to 2000-01, which is illegal, and, therefore, appropriate direction should be given by the Court to the respondent-Corporation to finalize the same within the time to be stipulated by the Court.

4. On the other hand, Mr.Maulin Rawal, learned counsel for the respondent-Corporation, submitted that the bills for the Assessment Years are being prepared every year and as the respondent-Corporation has changed its policy upon the amendment of the provisions of the Bombay Provincial Municipal Corporations Act and the Rules framed thereunder, with effect from April 1, 2001, the issuance of provisional bills to the petitioner should not be regarded as illegal.

5. This Court has heard the learned counsels for the parties.

6. From the facts of the case, it is clear that the petitioner was informed that he was given the provisional bills for the aforesaid period. However, the petitioner has not been informed whether the provisional bills have been finalized. On the facts and in the circumstances of the case, this Court is of the opinion that interest of justice would be served if the following directions are issued.

7. The respondent-Corporation is hereby directed to finalize the assessment and/or bills sent to the petitioner for the Assessment Years 1994-95 to 2000-01 within eight weeks from the date of receipt of the Writ. The respondent is also directed to take into consideration the averments and submissions made by the petitioner in the instant petition before finalizing the bills so that the grievance which has been ventilated by

the petitioner in the instant petition, if found to be just, can be redressed by the respondent-Corporation.

8. Subject to abovereferred to directions, Rule is made absolute. There shall be no orders as to costs.

(J.M.Panchal, J.)

(Smt.Abhilasha Kumari, J.)

(sunil)